

UNAPPROVED
BOARD OF PHYSICAL THERAPY
MEETING MINUTES

The Virginia Board of Physical Therapy convened for a board meeting on Wednesday, March 29, 2017 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Allen R. Jones, Jr., PT, DPT, President
Arkena Dailey, PT, DPT, Vice President
Sarah Schmidt, PTA
Melissa Wolff-Burke, PT, EdD
Dixie Bowman, PT, DPT, EdD
Tracey Adler, PT, DPT
Steve Lam, Citizen Member

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Corie Tillman Wolf, J.D., Executive Director
Lynne Helmick, Deputy Executive Director, Discipline
David E. Brown, D.C., Agency Director
Lisa R. Hahn, Agency Chief Deputy Director
Elaine Yeatts, Senior Policy Analyst
Laura Mueller, Program Manager

BOARD COUNSEL PRESENT:

Erin Barrett, Assistant Attorney General

QUORUM:

With 7 members present, a quorum was established.

GUESTS PRESENT

Tom Bohannon, Virginia Physical Therapy Association (VPTA)
Peggy Belmont
Richard Grossman, VPTA
Josh Bailey, VPTA
Rebecca Reynolds, Acupuncture Society of Virginia
Arthur Fan, L.A.C.
Janet Borges, L.A.C.

CALL TO ORDER

Dr. Allen R. Jones, Jr., President, called the meeting to order at 9:32 a.m. and asked the Board members and staff to introduce themselves.

Dr. Jones then stated the following before the first order of business:

- 1) Dr. Jones thanked the Board for his recent appointment as President of the Board.
- 2) Dr. Jones also stated that he likes to run meetings efficiently and on time.
- 3) Dr. Jones thanked Sarah Schmidt for her service and dedication as Board President.

Ms. Tillman Wolf then read the Emergency Egress Procedures.

RECOGNITION OF SERVICE – Lisa R. Hahn

Dr. Jones presented Lisa R. Hahn with a plaque thanking Ms. Hahn for her noble years of service as Executive Director for the Board and congratulated Ms. Hahn on her new role as Deputy Director for the agency.

Mr. J.R. Locke, former Board Member, also expressed his gratitude for Ms. Hahn's dedication and wished her the best.

Ms. Peggy Belmont, former Board Member, spoke thanking Ms. Hahn for her years of service and efficiently running the Board as well as her continued support and active participation with FSBPT.

Ms. Hahn graciously accepted the plaque and thanked everyone for allowing her to direct this Board.

APPROVAL OF MINUTES

Ms. Tillman Wolf noted that the minutes for the February 7, 2017 Public Hearing on the Proposed Dry Needling Regulations had been updated to include a transcript of the hearing as an attachment.

Upon a motion by Ms. Sarah Schmidt and properly seconded by Dr. Arkena Dailey, the Board voted to accept the following minutes of the meetings.

- Board Meeting – November 15, 2016
- Legislative/Regulatory Committee – February 7, 2017
- Physical Therapy Compact Committee – February 7, 2017
- Public Hearing – Proposed Dry Needling Regulations – February 7, 2017
- Telephone Conference – February 21, 2017

The motion carried unanimously.

ORDERING OF THE AGENDA

Upon a motion by Dr. Arkena Daily. and properly seconded by Dr. Dixie Bowman, the agenda was accepted as presented. The motion carried unanimously.

PUBLIC COMMENT

Peggy Belmont provided comments regarding a comment posted by the VPTA to her Petition for Rulemaking.

Public comment was closed.

AGENCY DIRECTOR'S REPORT – Dr. David Brown, D.C.

Dr. Brown provided the following report:

- Dr. Brown reported that the focus for DHP bills in the General Assembly this session was on the opioid epidemic.
- There has been an increase in hepatitis C in Southwest Virginia, as well as an increase in neonatal abstinence syndrome.
- This epidemic has really come to the forefront. In 2015 - 811 Virginians died of overdose; in 2016 - 1,100 died from overdose, a 33% increase. Opioids are becoming more available on the streets.
- Peer recovery specialists will be registered with the Board of Counseling.
- The Boards of Medicine, Dentistry, Pharmacy and Veterinary Medicine have or are in the process of promulgating new regulations in place addressing this issue.
- The Physical Therapy profession plays a role in that PTs have knowledge of the non-pharmacological options for treatment of pain.
- The Secretary of Health and Human Resources plans to convene agencies and educators to discuss enhancing training at health professional schools regarding opioids.

Dr. Jones commented that the opioid has highly impacted the Hampton Roads area.

Dr. Adler added that the American Physical Therapy Association (APTA) campaign for public education on pain relief without opioid use for physical therapy. There is a link on Facebook, "Move Forward," that is very informative.

With no further questions, Dr. Brown concluded his report.

EXECUTIVE DIRECTOR'S REPORT – Corie Tillman Wolf, J.D.

Ms. Tillman Wolf provided the following report:

Expenditure and Revenue Summary

FY16 Budget

Cash Balance as of June 30, 2016	\$ 712,466
YTD FY17 Revenue	1,204,920
Less: YTD FY17 Direct and In-Direct Expenditures	<u>400,192</u>

Cash Balance as of February 28, 2017

\$ 1,517,194

FSBPT Updates

Ms. Tillman Wolf announced the appointments of two Board members to serve on FSBPT committees: Sarah Schmidt on Resolutions Committee and Dr. Arkena Dailey on the Education Committee. Ms. Tillman Wolf expressed her appreciation for Ms. Schmidt and Dr. Dailey for volunteering their services.

PT Licensure Compact

In December 2016, Ms. Tillman Wolf attended a Summit on Interstate Collaboration sponsored by the Council on State Governments' National Center for Interstate Compacts. The Summit was a general session on interstate compacts, but included participants from other health professions currently looking at interstate compacts.

As an update about the PT Compact, currently 9 states have passed/enacted the Compact, 3 states have legislation that has passed one chamber, and 5 states have introduced bills in 2017 to join the Compact.

FSBPT Upcoming Training

Ms. Tillman Wolf announced the upcoming FSBPT trainings for Board Members, as well as the need for Board members to discuss election of Primary and Alternate Delegates to attend upcoming FSBPT training and the annual meeting.

2017 Planning

Ms. Tillman Wolf shared that Board staff has a number of projects for 2017, including disseminating information to licensees via email blast regarding any Board changes, notes and reminders; an update of the Board's website; an audit of continuing education and active practice requirements from the recent renewal cycle, which is currently in process by Board Staff; a review existing Guidance Documents; improvements to data reporting for discipline cases (patient and non-patient care); and "going green" by continuing to collect licensee and applicant e-mail addresses in an effort to reduce the mailing of information. Currently we have 94.4% emails on file from PTs and 94.3% from PTAs.

Licensure Report

Ms. Tillman Wolf provided the Licensure Report. Ms. Tillman Wolf mentioned the leaving of Missy Currier for a great opportunity with the Department of Social Services (DSS) to serve as their Associate Director of Licensure for Adult Programs. Ms. Currier was an asset to the Board and to the Department and will be missed, but Ms. Tillman Wolf shared Board staff's happiness for her move to DSS and the opportunity she has there.

Ms. Tillman Wolf provided the current statistics on licensees, customer satisfaction ratings, and exam passage rates:

Licensee Statistics	Nov. 2016	March 2017	
PT	8,337	7,389	-948
PTA	<u>3,336</u>	<u>3,101</u>	-235
Total	11,673	10,490	-1,183
DAccess Certifications	1,124	1,151	+27

Virginia Performs – Customer Service Satisfaction

- FY16 – 95.4% overall
- FY17 (1st Qtr.) – 97.5%
- FY17 (2nd Qtr.) – 100%

Laura Mueller is the front line for the Physical Therapy Board and she is extremely knowledgeable and helpful. Vicki Saxby and Heather Wright are cross trained and able to step in whenever necessary.

Exam Passage Rates – PT Exam - VA Candidates:

- January 26, 2017 PT Exam
 - 78.1% pass
 - 21.9% fail
- October 27, 2016 PT Exam
 - 75.3% pass
 - 24.72% fail
- July 19 & 20, 2016 PT Exam
 - 88.1% pass
 - 11.89% fail

January 26, 2017 PT Exam (78.1% pass – 21.9% fail)

	# who took exam	# Passed	1 st time test takers	Repeat test takers	# Failed	1 st time testers	Repeat Test Takers
US Applicants	32	25	21	4	7	3	4
Non-CAPTE Applicants	5	0	0	0	5	3	2
Total	37	25	21	4	12	3	6

2016 YTD PT Exam Stats:

- 639 VA Applicants have taken exam

- ☐ 569/passed – 70/failed
- ☐ 89.04% pass rate
- 15 Foreign Trained Applicants took exam
 - ☐ 6/passed – 9/failed
 - ☐ 40.0% pass rate

Exam Passage Rates – PTA Exam - VA Candidates:

- January 12, 2017 PTA Exam
 - 69.4% pass
 - 30.56% fail
- October 6, 2016 PTA Exam
 - 60.3% pass
 - 39.68% fail
- July 6, 2016 PTA Exam
 - 81.4% pass
 - 18.56% fail

January 12, 2017 PTA Exam (69.4% pass – 30.56% fail)

	# who took exam	# Passed	1 st time test takers	Repeat test takers	# Failed	1 st time testers	Repeat Test Takers
US Applicants	36	25	16	9	11	4	7
Non-CAPTE Applicants	0	0	0	0	0	0	0
Total	36	25	16	9	11	4	7

2016 YTD PTA Exam Stats:

- 285 VA Applicants have taken exam
 - ☐ 205/passed – 80/failed
 - ☐ 184 first time test takers
 - ☐ 71.93% pass rate
 - ☐ 28.07% fail rate

Virginia School Pass Rates*

	<u>Virginia</u>	<u>U.S. Accredited</u>
PT	97.80%	95.47%
PTA	87.59%	88.82%

***Based on 2016 Graduation Year**

2017 NPTE Exam Dates

- PT Exams:
 - April 26
 - July 18 & 19
 - October 25
- PTA Exams:
 - April 5
 - July 6
 - October 23

Notes

Ms. Tillman Wolf provided reminders to the Board members regarding travel and communications.

With no further questions, Ms. Tillman Wolf concluded her report.

Dr. Jones opened the floor for discussion of electing delegates. Board members decided to elect the Board President as Primary. Ms. Tillman Wolf will speak with FSBPT regarding the alternate, to ask if we can leave the alternate open until closer to the training date.

DISCIPLINE REPORT – Lynne Helmick – Deputy Executive Director, Discipline

Lynne Helmick, Deputy Executive Director, reported there are currently 28 open cases. Additionally, 14 of the cases are in the probable cause stage, 2 are in the Administrative Proceedings Division (APD), 1 is at the informal stage, and 9 are in investigation stage. There are 5 open compliance cases.

Ms. Helmick reviewed discipline statistics and Key Performance Measure slides with the Board.

- The Board's clearance rate is currently 88%; the Board has received 8 cases and closed 7 cases.
- The pending caseload over 250 days is at 5%, which is well under the 20% goal.
- The percentage of cases closed within 250 days was at 75%, where the goal is 90%. Two of the 7 closed cases were not closed within 250 days.

Ms. Helmick provided an overview of why some cases age, including the timeline of when cases are at the investigation and adjudication stages.

Ms. Helmick reviewed data regarding the total numbers of cases received and closed, clearance rates for all cases, and the average days to close a case since the first quarter of FY 2016:

Cases received/closed

Q1 2016	14/4
Q2 2016	17/17
Q3 2016	9/7
Q4 2016	6/9
Q1 2017	8/4

Q2 2017 9/9

Percentage of all cases closed in 250 days

	Q1-2016	Q2-2016	Q3-2016	Q4-2016	Q1-2017	Q2-2017
PT	75%	100%	100%	77.8%	25%	77.8%
Agency	84.4%	85.6%	84.8%	85.6%	82%	85.1%

Average days to close a case

	Q1-2016	Q2-2016	Q3-2016	Q4-2016	Q1-2017	Q2-2017
PT	190	117.1	145.3	242.9	403	273.7
Agency	200.1	190.8	201.6	188.5	202.7	207.7

Ms. Helmick provided a summary of the categories of cases processed by the Board in FY16 and the first two quarters of FY17.

With no additional questions, Ms. Helmick concluded her report.

BOARD COUNSEL REPORT – Erin L. Barrett

Ms. Barrett presented to the Board expert admissibility standards to be considered at the advice of the Office of Attorney General. To be consistent, the Boards should adopt a standard to determine if a person can testify as an expert witness in a disciplinary hearing.

Upon a motion by Dr. Arkena Daily and properly seconded by Ms. Sarah Schmidt, the Board voted to adopt the Traditional Virginia Standard as presented. The motion carried unanimously.

BOARD OF HEALTH PROFESSIONS REPORT – Allen R. Jones, Jr., PT, DPT

Dr. Jones announced the appointment of the new president and vice president of the Board of Health Professions.

With no further questions, Dr. Jones concluded his report.

BREAK

The Board took a recess at 10:48 a.m. and reconvened at 10:52 a.m.

WORKFORCE DATA CENTER REPORT – Yetty Shobo, Ph.D.

Dr. Shobo provided the Board with a comparison of 2014 and 2016 survey results for physical therapist and physical therapist assistants.

With no further questions, Dr. Shobo concluded her report.

Upon a motion by Dr. Arkena Daily and properly seconded by Dr. Tracey Adler, the Board approved the workforce data surveys as presented. The motion carried unanimously.

LEGISLATIVE/REGULARY COMMITTEE – Melissa Wolff-Burke, PT, EdD, Chair

Dr. Wolff-Burke reported that the Board received public comment on the proposed dry needling regulations at a public hearing. The Board is continuing to review the issue regarding dry needling and the Boards regulations.

With no further questions, Dr. Wolff-Burke concluded her report.

LICENSURE COMPACT SUBCOMMITTEE REPORT – Dixie H. Bowman, PT, DPT, EdD

Dr. Bowman summarized the meetings of the Compact Special Committee, and stated that the Committee recommends postponing consideration of the Compact for one year and taking a look at the Compact again after there is more information available from other states. The Committee considered information from the Board of Nursing, FSBPT, and information presented by staff regarding implementation and potential costs.

With no further questions, Dr. Bowman concluded her report.

LEGISLATIVE AND REGULATORY REPORT – Elaine Yeatts, Senior Policy Analyst

Ms. Yeatts notified the Board that the regulation permitting continuing education credit for volunteer services will go into effect on May 5, 2017.

Ms. Yeatts then stated that there are several regulatory actions that the Board will need to consider.

Consideration of Draft Regulations for the Recognition of the oPTion Assessment Tool – Ms. Yeatts explained the proposed regulations recommended by the Legislative/Regulatory Committee to replace the Practice Review Tool (PRT), which was replaced by FSBPT in November 2016 with another assessment tool, oPTion. The proposed regulations provide a definition for “Assessment Tool” to include oPTion and provide a minimum assessment level for purposes of use of the oPTion tool for determining traineeship hour requirements and continuing competency credits.

Upon a motion by Dr. Dixie Bowman, and properly seconded by Dr. Arkena Dailey, the Board accepted the draft regulations as recommended by the Legislation/Regulatory Committee regarding oPTion (**Attachment A**). The motion carried unanimously.

Consideration of/Response to Public Comments – Proposed Regulations on the Practice of Dry Needling – Ms. Yeatts reported that the Board received a very high volume of public comments during the public comment period addressing the proposed regulations for dry needling. Ms. Yeatts previously provided a summary of the public comments to Board members and the commenters, and a summary of public comment is in the agenda packet. and explained the Board’s next steps in responding to public comment. Ms. Yeatts indicated that some Boards form a Regulatory Advisory Panel (RAP) to assist them with recommendations for response to public comment and/or recommendations for revisions to the regulations.

Dr. Missy Wolff-Burke suggested the Board form a RAP to discuss this further based on the new information received since the regulations were drafted and the large public comment.

Upon a motion by Dr. Arkena Dailey, and properly seconded by Ms. Sarah Schmidt, the Board voted to refer the proposed dry needling regulations and public comments to a RAP. The motion carried unanimously.

Consideration of Petition for Rulemaking (Continuing Education) – Ms. Yeatts explained that the Board had three options before it: the Board may take no action on the petition for rulemaking (reject it), take no action at this time and refer the petition to a committee for further consideration, or initiate rulemaking.

Upon a motion by Ms. Sarah Schmidt, and properly seconded by Dr. Tracey Adler, the Board voted to refer the petition for rulemaking to the Legislative/Regulatory committee for further consideration. The motion carried unanimously.

Consideration of Revisions to Guidance Document 112-2 (Confidential Consent Agreements) – Ms. Yeatts presented proposed revisions to Guidance Document 112-2 regarding confidential consent agreements to be used in lieu of public discipline.

Upon a motion by Ms. Sarah Schmidt, and properly seconded by Dr. Arkena Dailey, the Board voted to adopt the revisions of Guidance Document 112-2 as presented (**Attachment B**). The motion carried unanimously.

Consideration of Revisions to Guidance Document 112-22 (Procedures for Auditing Continued Competency Requirements) – Ms. Yeatts presented proposed revisions to Guidance Document 112-22 regarding procedures for auditing continued competency requirements.

Upon a motion by Dr. Arkena Dailey, and properly seconded by Dr. Dixie Bowman, the Board voted to adopt the revisions of Guidance Document 112-22 as presented (**Attachment C**). The motion carried unanimously.

With no further questions, Ms. Yeatts concluded her report.

BREAK

The Board took a recess at 11:54 a.m. and reconvened at 12:00 p.m.

SANCTIONING REFERENCE POINTS – Neal Kauder, Kim Small

Mr. Kauder stated he routinely attends full board meetings to provide the Board Members with information on how sanctions are developed and how to promote more consistency across all Boards. Mr. Kauder also suggested that the Board may want to update the Sanctioning Reference Point worksheets for Physical Therapy.

Ms. Small presented a walk through with the Board Members of a sample case showing how a case would be scored.

Dr. Jones stated that he would like to create a Special Conference Committee to take a look at the worksheet for updates.

With no further questions, Mr. Kauder and Ms. Small concluded their report.

HEALTH PRACTITIONERS' MONITORING PROGRAM (HPMP) – Peggy Wood

Ms. Wood presented to the Board a brief overview of HPMP. HPMP monitors the recovery of practitioners who may be impaired by chemical dependencies or who suffer from physical or mental disabilities. Ms. Wood mentioned currently there are four (4) physical therapist licensees enrolled in the program – two PT's and two PTA's.

NEXT MEETING – May 11, 2017

Board Members decided to hold this date for now until alternate dates are determined.

ADJOURNMENT

With all business concluded, the meeting adjourned at 1:12 p.m.

Allen R. Jones, Jr., PT, DPT, President

Corie Tillman Wolf, J.D., Executive Director

Date

Date

ATTACHMENT A

Project 4983 - NOIRA

BOARD OF PHYSICAL THERAPY

Recognition of oPTion assessment tool

Part I

General Provisions

18VAC112-20-10. Definitions.

In addition to the words and terms defined in § 54.1-3473 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Active practice" means a minimum of 160 hours of professional practice as a physical therapist or physical therapist assistant within the 24-month period immediately preceding renewal. Active practice may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.

"Approved program" means an educational program accredited by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association.

"CLEP" means the College Level Examination Program.

"Contact hour" means 60 minutes of time spent in continuing learning activity exclusive of breaks, meals or vendor exhibits.

"Direct supervision" means a physical therapist or a physical therapist assistant is physically present and immediately available and is fully responsible for the physical therapy tasks or activities being performed.

"Discharge" means the discontinuation of interventions in an episode of care that have been provided in an unbroken sequence in a single practice setting and related to the physical therapy interventions for a given condition or problem.

"Evaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to plan and implement a treatment intervention, provide preventive care, reduce risks of injury and impairment, or provide for consultation.

"FCCPT" means the Foreign Credentialing Commission on Physical Therapy.

"FSBPT" means the Federation of State Boards of Physical Therapy.

"General supervision" means a physical therapist shall be available for consultation.

"National examination" means the examinations developed and administered by the Federation of State Boards of Physical Therapy and approved by the board for licensure as a physical therapist or physical therapist assistant.

"Assessment tool" means oPTion or any other competency assessment tool developed or approved by FSBPT.

~~"PRT" means the Practice Review Tool for competency assessment developed and administered by FSBPT.~~

"Reevaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to determine a patient's response to the treatment plan and care provided.

"Support personnel" means a person who is performing designated routine tasks related to physical therapy under the direction and supervision of a physical therapist or physical therapist assistant within the scope of this chapter.

"TOEFL" means the Test of English as a Foreign Language.

"Trainee" means a person seeking licensure as a physical therapist or physical therapist assistant who is undergoing a traineeship.

"Traineeship" means a period of active clinical practice during which an applicant for licensure as a physical therapist or physical therapist assistant works under the direct supervision of a physical therapist approved by the board.

"TSE" means the Test of Spoken English.

"Type 1" means continuing learning activities offered by an approved organization as specified in 18VAC112-20-131.

"Type 2" means continuing learning activities which may or may not be offered by an approved organization but shall be activities considered by the learner to be beneficial to practice or to continuing learning.

18VAC112-20-65. Requirements for licensure by endorsement.

A. A physical therapist or physical therapist assistant who holds a current, unrestricted license in the United States, its territories, the District of Columbia, or Canada may be licensed in Virginia by endorsement.

B. An applicant for licensure by endorsement shall submit:

1. Documentation of having met the educational requirements prescribed in 18VAC112-20-40 or 18VAC112-20-50. In lieu of meeting such requirements, an applicant may provide evidence of clinical practice consisting of at least 2,500 hours of patient care during the five years immediately preceding application for licensure in Virginia with a current, unrestricted license issued by another U.S. jurisdiction;
2. The required application, fees, and credentials to the board;

3. A current report from the Healthcare Integrity and Protection Data Bank (HIPDB);
4. Evidence of completion of 15 hours of continuing education for each year in which the applicant held a license in another U.S. jurisdiction, or 60 hours obtained within the past four years;
5. Documentation of passage of an examination equivalent to the Virginia examination at the time of initial licensure or documentation of passage of an examination required by another state at the time of initial licensure in that state; and
6. Documentation of active practice in physical therapy in another U.S. jurisdiction for at least 320 hours within the four years immediately preceding his application for licensure. A physical therapist who does not meet the active practice requirement shall:

- a. Successfully complete 320 hours in a traineeship in accordance with requirements in 18VAC112-20-140; or
- b. Document that he ~~meets the standard of the PRT~~ attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for licensure in Virginia and successfully complete 160 hours in a traineeship in accordance with the requirements in 18VAC112-20-140.

C. A physical therapist assistant seeking licensure by endorsement who has not actively practiced physical therapy for at least 320 hours within the four years immediately preceding his application for licensure shall successfully complete 320 hours in a traineeship in accordance with the requirements in 18VAC112-20-140.

18VAC112-20-131. Continued competency requirements for renewal of an active license.

A. In order to renew an active license biennially, a physical therapist or a physical therapist assistant shall complete at least 30 contact hours of continuing learning activities within the two years immediately preceding renewal. In choosing continuing learning activities or courses, the

licensee shall consider the following: (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

B. To document the required hours, the licensee shall maintain the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of the following:

1. A minimum of 20 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants shall be in Type 1 courses. For the purpose of this section, "course" means an organized program of study, classroom experience or similar educational experience that is directly related to the clinical practice of physical therapy and approved or provided by one of the following organizations or any of its components:

- a. The Virginia Physical Therapy Association;
- b. The American Physical Therapy Association;
- c. Local, state or federal government agencies;
- d. Regionally accredited colleges and universities;
- e. Health care organizations accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation;
- f. The American Medical Association - Category I Continuing Medical Education course;
- and
- g. The National Athletic Trainers' Association.

2. No more than 10 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants may be Type 2 activities or courses, which may or may not be offered by an approved organization but which shall be related to the clinical practice of physical therapy. Type 2 activities may include but not be limited to consultation with colleagues, independent study, and research or writing on subjects related to practice.

3. Documentation of specialty certification by the American Physical Therapy Association may be provided as evidence of completion of continuing competency requirements for the biennium in which initial certification or recertification occurs.

4. Documentation of graduation from a transitional doctor of physical therapy program may be provided as evidence of completion of continuing competency requirements for the biennium in which the physical therapist was awarded the degree.

5. A physical therapist who can document that he ~~has taken the PRT~~ attained at least Level 2 on the FSBPT assessment tool may receive ~~40~~ 5 hours of Type 1 credit for the biennium in which the assessment tool was taken. A physical therapist who can document that he ~~has met the standard of the PRT~~ attained at least Level 3 or 4 on the FSBPT assessment tool may receive ~~20~~ 10 hours of Type 1 credit for the biennium in which the assessment tool was taken. Continuing competency credit shall only be granted for the FSBPT assessment tool once every four years.

C. A licensee shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure by examination in Virginia.

D. The licensee shall retain his records on the completed form with all supporting documentation for a period of four years following the renewal of an active license.

E. The licensees selected in a random audit conducted by the board shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.

F. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

G. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

H. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

18VAC112-20-135. Inactive license.

A. A physical therapist or physical therapist assistant who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required renewal fee, be issued an inactive license.

1. The holder of an inactive license shall not be required to meet active practice requirements.

2. An inactive licensee shall not be entitled to perform any act requiring a license to practice physical therapy in Virginia.

B. A physical therapist or physical therapist assistant who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the biennium in which the license is being reactivated;

2. Providing proof of 320 active practice hours in another jurisdiction within the four years immediately preceding application for reactivation.

a. If the inactive physical therapist licensee does not meet the requirement for active practice, the license may be reactivated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140 or documenting that he has ~~met the standard of the PRT~~ attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for reactivation of licensure in Virginia and successfully completing 160 hours in a traineeship in accordance with requirements in 18VAC112-20-140.

b. If the inactive physical therapist assistant licensee does not meet the requirement for active practice, the license may be reactivated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140; and

3. Completing the number of continuing competency hours required for the period in which the license has been inactive, not to exceed four years.

18VAC112-20-136. Reinstatement requirements.

A. A physical therapist or physical therapist assistant whose Virginia license is lapsed for two years or less may reinstate his license by payment of the renewal and late fees as set forth in 18VAC112-20-27 and completion of continued competency requirements as set forth in 18VAC112-20-131.

B. A physical therapist or physical therapist assistant whose Virginia license is lapsed for more than two years and who is seeking reinstatement shall:

1. Apply for reinstatement and pay the fee specified in 18VAC112-20-27;

2. Complete the number of continuing competency hours required for the period in which the license has been lapsed, not to exceed four years; and

3. Have actively practiced physical therapy in another jurisdiction for at least 320 hours within the four years immediately preceding applying for reinstatement.

a. If a physical therapist licensee does not meet the requirement for active practice, the license may be reinstated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140 or documenting that he has ~~met the~~ standard of the PRT attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for licensure in Virginia and successfully completing 160 hours in a traineeship in accordance with requirements in 18VAC112-20-140.

b. If a physical therapist assistant licensee does not meet the requirement for active practice, the license may be reinstated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140.

ATTACHMENT B

Guidance document: 112-2

Revised: March 29, 2017

Board of Physical Therapy

CONFIDENTIAL CONSENT AGREEMENTS

Virginia Code § 54.1-2400(14) authorizes the health regulatory boards to resolve certain allegations of practitioner misconduct by means of a Confidential Consent Agreement (“CCA”). This agreement may be used by a board in lieu of public discipline, but only in cases involving minor misconduct and non-practice related infractions, where there is little or no injury to a patient or the public, and little likelihood of repetition by the practitioner.

A CCA shall not be used if the board determines there is probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his/her practice in such a manner as to be a danger to the health and welfare of patients or the public.

A CCA shall be considered neither a notice nor an order of a health regulatory board, both of which are public documents. The acceptance and content of a CCA shall not be disclosed by either the board or the practitioner who is the subject of the agreement.

A CCA may be offered and accepted at any time prior to the issuance of a notice of informal conference by the board. By law, the agreement document must include findings of fact and may include an admission or a finding of a violation. A CCA may be considered by the board in future disciplinary proceedings. A practitioner may only enter into two confidential consent agreements involving a standard of care violation within a 10-year period. The practitioner shall receive public discipline for any subsequent violation within the 10-year period following the entry of two CCAs unless the board finds that there are sufficient facts and circumstances to rebut the presumption that such further disciplinary action should be made public.

Violations of regulation or statute that may qualify for resolution by a Confidential Consent Agreement include, but are not limited to:

- Inadvertent HIPAA/confidentiality violation
- Exceeding scope of referral (i.e. number of treatments)
- First violation regarding continued competency (see Guidance Document 112-22)
- First violation of advertising regulations

ATTACHMENT C

Guidance Document: 112-22

Revised: March 29, 2017

Virginia Board of Physical Therapy

Procedures for Auditing Continued Competency Requirements

The Board of Physical Therapy may audit a random sample of licensees to investigate compliance with the Board's continuing competency requirements and active practice requirements. The Board may also audit active licensees, who by terms of a Confidential Consent Agreement ("CCA") or a Pre-Hearing Consent Order ("PHCO"), are required to take continuing education ("CE") courses in addition to the continued competency requirements for renewal of a license.

1. Board staff reviews each audit report and either:
 - a. Sends an acknowledgement letter of fulfillment of the continuing competency requirements and active practice requirements, or
 - b. Opens a case for probable cause.
2. Once a case is opened for probable cause, Board staff may:
 - a. Issue a CCA if the licensee was truthful in responding to the renewal attestation and the licensee has not previously been found in violation of CE or active practice requirements. For those licensees who fail to meet the CE requirements, the CCA may require the licensee to submit proof of completion of the missing contract hours(s) within 90 days of the effective date of the CCA. Such contact hours cannot be used toward fulfillment of the next biennial CE requirement for renewal; or
 - b. Issue a PHCO if the licensee was not truthful in responding to the renewal attestation or the licensee has previously been found in violation of CE or active practice requirements. The following sanctions may apply:
 - (i) Monetary Penalty of \$100 per missing contact hour, up to a maximum of \$1,000;
 - (ii) Monetary Penalty of \$300 for a fraudulent renewal certification; and
 - (iii) For those licensees who fail to meet the CE requirements, submission of proof of completion of the missing contact hour(s) within 90 days of Order entry. These contact hours cannot be used toward the next biennial requirement for renewal.
3. The case will be referred to an informal fact-finding conference if the licensee:

- a. Fails to respond to the audit or does not wish to sign the CCA or PHCO that is offered;
or
- b. Has previously been disciplined pursuant to a Board Order for not meeting the CE requirements.